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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
ANTON V. EVALT,

Appellant,

v.

SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY,

Respondent.

PCHB No. 612

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER being an appeal of a \$100.00 civil penalty imposed by the Southwest Air Pollution Control Authority for an alleged violation of its Regulation I, Article IV, Section 4.01; having come on regularly for hearing before William E. Cullen, Jr., hearing examiner, on the 27th day of September, 1974, at Vancouver, Washington; and appellant, Anton V. Evalt, appearing pro se and respondent, Southwest Air Pollution Control Authority, appearing through its attorney, James D. Ladley; and the Board having read the transcript, examined the exhibits, records and files herein and having entered on the 20th day of November, 1974, its

1 proposed Findings of Fact, Conclusions of Law and Order, and the
2 Board having served said proposed Findings, Conclusions and Order upon
3 all parties herein by certified mail, return receipt requested and
4 twenty days having elapsed from said service; and

5 The Board having received no exceptions to said proposed Findings,
6 Conclusions and Order; and the Board being fully advised in the premises;
7 now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
9 Findings of Fact, Conclusions of Law and Order, dated the 20th of
10 November, 1974, and incorporated by this reference herein and attached hereto
11 as Exhibit A, are adopted and hereby entered as the Board's Final Findings
12 of Fact, Conclusions of Law and Order herein.

13 DONE at Lacey, Washington, this 7th day of January, 1975.

14 POLLUTION CONTROL HEARINGS BOARD

15 Walt Woodward
16 WALT WOODWARD, Chairman

17 Chris Smith
18 CHRIS SMITH, Member
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26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW
AND ORDER

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SOUTHWEST AIR POLLUTION
CONTROL AUTHORITY,

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FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

This matter, the appeal of a \$100.00 civil penalty imposed by the Southwest Air Pollution Control Authority for an alleged violation of its Regulation I, Article IV, Section 4.01, was heard at an informal hearing before William E. Cullen, Jr., hearing examiner, in the council chambers at the City Hall in Vancouver, Washington, on September 27, 1974.

Appellant, Anton V. Evalt, appeared pro se; respondent, Southwest Air Pollution Control Authority, appeared by its attorney, James D. Ladley.

Jim Ablin, Chief of Control and Abatement for respondent; Anton V.

EXHIBIT A

1 Evalt, appellant, and David Sturdevant, Fire Chief for Clark County Fire
2 District No. 5, were sworn and testified. Respondent's Exhibit 1
3 consisting of the regulations of the Southwest Air Pollution Control
4 Authority, and respondent's Exhibit 2 consisting of a copy of the
5 Notice of Violation were admitted.

6 Having reviewed the transcript and examined the exhibits, the
7 Pollution Control Hearings Board makes these

8 FINDINGS OF FACT

9 I.

10 Appellant is part-owner of the property at 8603 Northeast 107th
11 Avenue in Vancouver, Clark County, Washington. Appellant resides on
12 the property at that location and operates a business on the property.

13 II.

14 On or about the 21st day of May, 1974, sometime late in the
15 evening, appellant burned some materials on that property. Although the
16 violation indicates the 23rd of May, it was testified that this was
17 simply a clerical error and that the fire actually occurred on the 21st
18 of May.

19 III.

20 David Sturdevant, Chief of Clark County Fire District No. 5; visited
21 the area of the property on May 21, 1974, pursuant to an alarm. The
22 fire department did extinguish the fire. Mr. Sturdevant found that the
23 fire had been a barn fire consisting of old scrap lumber and that it
24 had also included wheel rims with some of the old tires and pieces of
25 old tires also burning in the fire. Appellant admitted that some of the
26 tire rims in the fire actually had pieces of rubber attached to them,

27 FINDINGS OF FACT,

CONCLUSIONS OF LAW AND ORDER

1 but that the tires themselves were not being burned. Mr. Evalt indicated
2 that the reason the tire rims were being burned was to burn the rubber
3 off so that the tire rims could be re-used.

4 IV.

5 Mr. Sturdevant had had previous contact with appellant concerning
6 the burning regulations. Mr. Sturdevant had not issued any permit to
7 appellant to burn. The fire occurred after dark. The fire was six to
8 eight feet in diameter and the pile of debris was six to eight feet high.

9 V.

10 Appellant indicated that there had been open burning permitted
11 prior to the time of his fire, and he felt that it was still all right.
12 He indicated that he was unaware of the prohibition against burning after
13 dark, but he did know that tire rims were in the fire and that an old
14 barn was being burned, not vegetation.

15 VI.

16 Regulation I, Article IV, Section 4.01 of the Southwest Air
17 Pollution Control Authority, prohibits the burning of any rubber products.
18 The regulation also prohibits a salvage operation by burning. Salvage
19 operation is defined under Section 1.04 of Article I to mean "any operation
20 where burning of combustible materials is carried on for the principle (sic)
21 purpose of the removal of salvable (sic) noncombustible material for
22 profit."

23 VII.

24 A notice of civil penalty was issued by the Southwest Air Pollution
25 Control Authority of \$100.00, and notice of this was received by the
26 appellant in this case.

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

VIII.

Any Conclusion of Law hereinafter recited which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings, the Pollution Control Hearings Board comes to these

CONCLUSIONS OF LAW

I.

The obligation to abide by respondent's regulations regarding burning is that of the appellant, Anton V. Evalt.

II.

Appellant burned or permitted to burn old barn wood and other discarded material including pieces of old rubber tires and tire rims.

III.

The burning of the tire rims was apparently for the purpose of salvaging the tire rims.

IV.

The penalty assessed for burning this fire is appropriate considering the prior contact the appellant has had with both the respondent and the fire district officials, and considering the size of the fire and the contents of the fire.

V.

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

Accordingly, it is the Board's

ORDER

The violation notice of the Southwest Air Pollution Control

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 Authority assessing a penalty of \$100.00 against the appellant, Anton
2 V. Evalt, for permitting and maintaining an open fire in violation of
3 Article IV, Section 4.01 of Regulation I of the Southwest Air Pollution
4 Control Authority, is affirmed.

5 DONE at Lacey, Washington this 20th day of November, 1974.

6 POLLUTION CONTROL HEARINGS BOARD

7 Walt Woodward

8 WALT WOODWARD, Chairman

9 Chris Smith

10 CHRIS SMITH, Member

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27 FINDINGS OF FACT,
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